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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STEVEN SMITH, FERNANDEZ SMITH,
and THE ESTATE OF BONNIE JOYCE
SMITH

Plaintiff,

vs.

CONTINENTAL CASUALTY
INSURANCE, CO. and DOES 1-100,
inclusive

Defendants.

CASE NO.CIV F-02-5431 OWW SMS
Complaint: 4/19/02
District Judge: Oliver W. Wanger
Magistrate Judge: Sandra M. Snyder

[ELECTRONIC FILING]

STIPULATION AND ORDER

Trial Date: November 8, 2005

WHEREAS on September 2, 2005, plaintiffs and defendant filed a joint pre-trial statement, and plaintiffs inadvertently omitted a measure of relief sought, which was a claim of pre-judgement interest at seven percent (7%) per year since the accident; and,

WHEREAS on September 16, 2005, the Court made a Pre-Trial Order that did not reflect the measure of relief sought by plaintiffs, which was the claim of pre-judgment interest; and,

WHEREAS defendant does not agree that plaintiffs are entitled to the relief sought, which is the claim of pre-judgement interest at seven percent (7%) per year

1 since the accident, and reserves the right to object to and argue against plaintiffs'
2 entitlement to such relief; but,

3 WHEREAS both plaintiffs and defendant do agree that the omission of the relief
4 sought was the result of mistake, inadvertence, and excusable neglect, because
5 previous drafts of the pre-trial statement included plaintiffs' claim of pre-judgment
6 interest at seven percent (7%) per year since the accident;

7 IT IS HEREBY STIPULATED that the Pre-Trial Order may be amended to
8 include a claim of relief for pre-judgment interest at seven percent (7%) per year since
9 the accident.

10
11 SO STIPULATED:

12
13 DATED: _____, 2005

GREENE BROILLET & WHEELER, LLP

14
15 /s/
16 Mark T. Quigley
Attorney for Plaintiffs

17
18 DATED: _____, 2005

BERGER KAHN

19
20
21 /s/
22 Sherman M. Spitz
Ryan C. Tully
23 Attorneys for Defendant

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25 G
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Having considered the submitted stipulation and good cause having been shown by plaintiffs.

IT IS SO ORDERED that the Pre-Trial Order be amended to include the measure of relief sought by plaintiffs, which is a claim of pre-judgement interest at seven percent (7%) per year since the accident.

DATED: 10/12/2005 /s/Oliver W. Wanger

Hon. Oliver W. Wanger

United States District Court Judge